REMARKS

In the Final Office Action issued October 15, 2003, the Examiner (1) rejected Claims 1, 2 and 6-11 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,158,155 issued to Domain et al. ("Domain") in view of U.S. Patent No. 5,186,281 issued to Jenkins ("Jenkins") and U.S. Patent No. 6,246,998 issued to Matsumori ("Matsumori"), (2) rejected Claims 3-5 under 35 U.S.C. § 103(a) as being unpatentable over Domain, Jenkins, Matsumori in view of U.S. Patent No. 6,026,375 issued to Hall et al. ("Hall"), (3) rejected Claims 12, 18, 19, 26, 29, 30, 32, 33, 35, 40-45, 48, 49, 51, 53, 54, 58, and 59 under 35 U.S.C. § 103(a) as being unpatentable over Domain in view of Jenkins, (4) rejected Claims 13-16 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Domain in view of Jenkins and Matsumori, (5) rejected Claims 17 and 22-25 under 35 U.S.C. 103(a) as being unpatentable over Domain and Jenkins in view of Hall, and (6) rejected Claim 20 under 35 U.S.C. § 103(a) as being unpatentable over Domain and Jenkins in view of Matsumori, (7) rejected Claims 21, 27, 28, 31, 34, 36-39, 57, 60 and 61 under 35 U.S.C. 103(a) as being unpatentable over Domain and Jenkins in view of Ruppert, (8) rejected Claims 46, 55 and 56 under 35 U.S.C. 103(a) as being unpatentable over Domain and Jenkins in view of Hall, (9) rejected Claim 47 under 35 U.S.C. 103(a) as being unpatentable over Domain and Jenkins in view of Hall, and further in view of an Official Notice, and (1) rejected Claim 52 under 35 U.S.C. 103(a) as being unpatentable over Domain and Jenkins further in view of Matsumori. Reconsideration and allowance of the application are requested.

The primary references cited by the Examiner are Domain and Jenkins. Domain discloses a "vendors' structural complex" that includes a customer order station for receiving customer orders and a plurality of pick-up stations accessible to customers in their vehicles where the merchandize ordered can be picked up. More specifically, customers drive up to an order station in the complex where they verbally communicate their orders to an order clerk, who then electronically enters the order. The order station includes a two-way audio and visual system to enable audio and visual communication between the customer and the order clerk. The system requires interaction between the customer and the order clerk. For instance, when the customer makes a liquor purchase or pays for his or her purchase by check, the order clerk must

visually verify the identity of the customer (col. 4, lines 55-59). Each order station is associated with three pick up stations, and the order clerk sends the customer to one of the three pick up stations to pick up his or her ordered products.

Jenkins discloses a complicated retail checkout system in which customers have to physically walk to a product display area (see Fig. 2) to make product selections, then go to a pre-check terminal 24 to collect a receipt, and finally get into and drive their vehicles to a vehicle checkout area to pick up selected products. The checkout area includes two "zones": zone 1 and zone 2. In zone 1, an employee on foot carrying a wireless transceiver communicates the order of customer queuing to another employee at terminal station 30 such that ordered articles are placed on customer order conveyor 32 in accordance with incoming vehicles in zone 1. (col. 3, lines 34-44 and col. 6, lines 5-33). Zone 2 is the final checkout area having finalizing terminal 34 at which the customer provides his or her credit card to the operator, who charges the card for the purchase. The customer's order is then loaded into his or her vehicle.

The present application is directed to an improved method and system for selling products such as, e.g., groceries. Products can be ordered by a customer online and thereafter quickly and efficiently provided to the customer for pickup, allowing for high throughput order fulfillment. Independent Claim 1 of the application is directed to a method of selling groceries, which includes the steps of:

> receiving an online order from a customer for grocery products the customer desires to pick up at a given location, said order being received from the customer while the customer is at a location remote from said given location;
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> electronically processing payment information for said order;
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> retrieving said grocery products from a storage area containing a plurality of such products and maintaining said retrieved grocery products in generally the same temperature conditions as said products were kept in the storage area to inhibit spoilage of said products;
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> detecting arrival including a generally unique identifier of said customer a predetermined distance from said given location after retrieving said grocery products;

dynamically selecting one of a plurality of loading areas at said given location based on availability and directing said customer to said selected loading area; and

moving said grocery products to said selected loading area for customer pickup responsive to detection of said customer.

Domain and Jenkins do not disclose or suggest a number of steps of Claim 1. First, contrary to what is asserted in the Office Action, Domain does not disclose or suggest the step of receiving an online order from a customer for grocery products the customer desires to pick up at a given location, said order being received from the customer while the customer is at a location remote from said given location. As indicated above, Domain has order stations that customers use for ordering products. The order stations, which are staffed with order clerks, are located at the complex where the products are picked up, and not remote from the complex. As previously discussed, Domain requires that customers interact with the order clerks in placing their orders. Customers must verbally identify products desired, and the order clerks then electronically enter the orders. The order clerks must visually verify the identity of customers when, e.g., liquor purchases are made or payment is made using checks. (Domain thus would be incompatible with and teaches away from combination with Matsumori, which discloses an Internet based ordering system, which would preclude visual verification of the customer when placing the order.)

Thus, Domain does not disclose or suggest receiving any online order from a customer. The Examiner states that Domain teaches this since the customer's order is placed through a primary computer via a microprocessor terminal. The Examiner contends that the customer order is thus received by a vendor online. The Examiner further states that Domain discloses that orders that have been submitted by telephone or facsimile may also be picked up by customers, and that this variation is another form of receiving an online order from a customer. This, however, does not disclose or in any way suggest receiving an online order from a customer. The term 'online' is known in the art to mean connected to a computer network or accessible by computer. For example, as indicated in the specification of the present application, various types of computer client machines can be used by customers for placing online orders including, but not limited to, personal computers and wireless hand-held devices. In Domain, customer orders are received either verbally via a two-way audio and visual system or by

telephone or facsimile. The clerk receiving the order then electronically enters the order at a terminal. In none of these cases is the customer order received online. While the order clerk might be considered to be online when entering the customer order, he or she does not in any way receive any online order from the customer.

In addition, Domain does not disclose or suggest detecting arrival including a generally unique identifier of the customer a predetermined distance from the given location after retrieving said grocery products. The Examiner, however, contends that Jenkins discloses this step, presumably at either zone 1 or zone 2 described above. This teaching is however not properly combinable with Domain. To combine the teachings of two references, there must be some suggestion or incentive for the combination. There is no such suggestion or incentive here. With respect to zone 1, Jenkins teaches that an employee on foot carrying a wireless transceiver communicates the order of customer queuing to another employee at terminal station 30 such that ordered articles are placed on customer order conveyor 32 in accordance with incoming vehicles. (col. 3, lines 34-44 and col. 6, lines 5-33). Thus, Jenkins teaches that the employee indicates the order of customer queuing such that ordered merchandize placed on the single customer conveyor of the single pickup area is in order of the customer vehicle queue. As previously mentioned, Jenkins requires customers to walk to a product display area (see Fig. 2) to make product selections, and then go to a pre-check terminal 24 to collect a receipt, and only thereafter can they drive their vehicles to a vehicle checkout. Orders placed at terminal 24 are not necessarily in the same order as the customer queue at the pick up area since different customers will take more or less time to get to their vehicles and drive to the pick up area. Accordingly, Jenkins uses an employee to determine and indicate the order of the customer vehicle queue. This is simply not an issue in Domain. As mentioned above, in Domain, customers drive up to an order station in where they verbally communicate their orders to an order clerk, who then electronically enters the order. Each order station is associated with three pick up stations, and the order clerk sends the customer to one of the three pick up stations to pick up his or her ordered products. As customers remain in their vehicles, and they drive immediately to pick up ordered products, it is highly unlikely, if at all possible, that the order of the customers arriving to pick up their products will be different from what has been entered by the order clerk. Accordingly, there is no need whatsoever of having an employee on foot

carrying a wireless transceiver communicating the order of customer queuing to another employee at terminal station 30 as specified in Jenkins. One skilled in the art would see no reason to add such an employee to the system of Domain, which would serve to perhaps only delay the pick up process, and make the process unnecessarily costly.

As previously mentioned, Jenkins discloses zone 2, which is the final checkout area having finalizing terminal 34 at which the customer provides his or her credit card to the operator, who charges the card for the purchase. There is also no reason to provide such a final checkout area in Domain since payment for the products in Domain have already been made at the customer order station. Again, one skilled in the art would have no motivation whatsoever to make this combination of teachings. In any event, zone 2 is the pickup location, and not a predetermined location from the pickup location.

The Examiner states that it would have been obvious to include in Domain detecting arrival including a generally unique identifier of a customer in order to ensure that the order is properly matched to the orderee, and to ensure that the customer receiving a liquor item was the same customer who placed the liquor order. As indicated above, in Domain, each order station is associated with three pick up stations, and the order clerk sends the customer to one of the three pick up stations to pick up his or her ordered products. As customers do not leave their vehicles and go straight to the designated pick up station, there is no issue of customer vehicle queuing at a pick up station that is different from that of orders placed. Accordingly, there is no need in Domain of having Jenkins' employee on foot carrying a wireless transceiver communicating the order of customer queuing. Furthermore, such an employee would not be able to ensure that a customer who placed a liquor order is in fact the one who receives it because the employee would be some distance away from the pickup station and not be aware of what is eventually picked up at the station. As Jenkins specifies, this employee is only responsible for indicating customer vehicle queuing. Thus, one skilled in the art would have no reason to combine the teachings of these references in the manner asserted by the Examiner.

In addition, Domain does not disclose or suggest moving the grocery products to the selected loading area for customer pickup responsive to detection of the customer. Domain, by

contrast, appears to disclose moving products to a pickup station responsive to placement of an order by the customer. The Examiner contends that this is shown by Jenkins before the customer moves to the final checkout zone 2. However, as Domain has already triggered movement of products to the pick up area, there would be no reason to do it again using the methods of Jenkins. Furthermore, as discussed above, there is however, no need whatsoever of having any further detection of the customer in Domain. One skilled in the art would have no motivation to combine this teaching of Jenkins with the system of Domain.

Claim 2 is dependent on Claim 1 and further specifies wherein receiving said order comprises receiving an order at a Web server from a remote client machine operated by said customer. Claim 3 is dependent on Claim 2 and further specifies wherein said client machine comprises a wireless communications device located in a vehicle in which said customer is seated. Neither claim is disclosed or suggested by Domain. As previously mentioned, in Domain's system, customers must verbally identify products desired, and the order clerks then electronically enter the orders. The order clerks must visually verify the identity of customers when, e.g., liquor purchases are made or payment is made using checks. This would not be possible if the customer ordering was done at a remote client machine as disclosed by Matsumori, which teaches an Internet based ordering system. Combination of Domain with this reference would mean that Domain's order stations would be replaced by Matsumori's Internet based ordering system. Domain thus would be incompatible with and teaches away from combination with Matsumori.

Independent Claim 1 and Claims 2-10, which depend on Claim 1, are therefore patentable over the cited references.

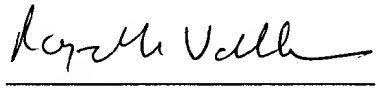
Independent Claim 12 of the application is directed to a method of selling merchandize, which includes detecting presence including a generally unique identifier of said customer a predetermined distance from said given location after readying said product; directing said customer to one of a plurality of a loading stations at said given location responsive to detecting the presence of the customer; and associating said product with said customer and moving said product to said one of a plurality of loading stations for customer pickup responsive to detecting

the presence of the customer. This claim is also patentable over the cited references. Claim 12 and dependent Claims 13-48 are therefore patentable over the cited references.

Independent Claim 49 is directed to a system for selling groceries to customers, which includes a detection apparatus for detecting the arrival including a generally unique identifier of the customer to pickup previously ordered products; and a transfer mechanism responsive to detection of the customer by the detection apparatus for moving the products from the storage area to a loading station at which the customer can pickup the product. This claim is also patentable over the cited references. Claim 49 and dependent Claims 50-61 are therefore patentable over the cited prior art.

Claims 1-61 are pending in the present application. As the application is now believed to be in condition for allowance, issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,



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